

# Draft of a Civil Service Law

Prepared by a Committee

of the

National Civil Service Reform League

PUBLISHED BY THE  
NATIONAL CIVIL SERVICE REFORM LEAGUE

79 Wall Street  
New York

1918

This draft of a civil service law was prepared to meet a demand in the work of the National Civil Service Reform League. One of the most important branches of that work is the extension of the merit system in state and municipal and county government. From all parts of the country requests are received at the office of the League for forms of civil service laws applicable to jurisdictions of varying sizes. In response to these requests the League has furnished copies of the laws in force in other jurisdictions, but these are in many instances the result of a building process and of frequent amendment, while in other cases they are distinctly inadequate.

The Council of the League has authorized its Secretary to distribute this draft, which has been prepared with the co-operation of persons familiar with the historical and technical development of the merit system. The draft contains a number of alternative provisions which may be accepted subject to the sentiments and beliefs of a particular community.

The League reiterates its desire to co-operate with any official or citizen organization in extending the scope of the merit system.

GEORGE T. KEYES, Secretary,  
National Civil Service Reform League.

## Draft of a Civil Service Law

[Applicable with minor or formal modifications or those required by constitutional provisions to any state, and embodying the essential features of a practical merit system of public employment prepared and approved by a Committee of the National Civil Service Reform League.]

An Act to regulate the civil service of the state, and of each of the civil divisions, counties, municipalities, school districts and other subdivisions of the state, including the executive, legislative and judicial branches. *Be it enacted, etc.,*

Section 1. DEFINITIONS: The words "Commission" and "Commissioner," as used in this Act, shall be construed to mean in respect to the state service, and in respect to examination and certification of eligibles for the offices of state, county, municipal, school district or other civil division, the State Civil Service Commission or Commissioner; in respect to each of the several county services, the County Civil Service Commission or Commissioner, and in respect to each of the several municipalities, the Municipal Civil Service Commission or Commissioner of such municipality, and in respect to any other subdivision of the state the Civil Service Commission or Commissioner thereof.

Section 2. DIVISION OF SERVICE: The civil service of the state and of each of the civil divisions, counties, municipalities, school districts, and other subdivisions of the state shall be divided into the unclassified and the classified service.

Section 3. UNCLASSIFIED SERVICE: The unclassified service shall comprise:

(a) <sup>1</sup>Officers elected by the people:

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<sup>1</sup> The adoption of a short ballot law in conjunction with a civil service law will greatly promote governmental efficiency. "Only those officers should be elected who have to do with policy making and who are important enough to attract and to deserve public attention."

(b) <sup>1</sup>Judges and receivers,<sup>2</sup> special masters in chancery, arbiters, jurors and persons appointed by a court to make or conduct any special inquiry of a judicial and temporary character;<sup>3</sup>

(c) <sup>3</sup>Officers and employes of a county, municipality, school district or other subdivisions of the state, having a service in all departments of less than fifty persons, and an average monthly payroll of less than five thousand dollars;

(d) Persons employed by contract to perform a special service where such contract is certified by the Civil Service Commission to be for employment which cannot be performed by persons in the classified service;

(e) Persons temporarily appointed or designated to make or conduct a special inquiry, investigation or examination, where such appointment or designation is certified by the Civil Service Commission to be for employment which should not be performed by persons in the classified service; and

(f) <sup>4</sup>One Civil Service Commissioner or three Civil Service Commissioners as provided in sections 6 and 7 of this act.

Section 4. CLASSIFIED SERVICE: The classified service shall comprise all other public officers and employes, and all offices and places of employment in the state service, and in the respective services of the several civil divisions, counties, municipalities and other subdivisions of the state, which shall be classified and graded in the manner provided for in this Act and in the rules made in pursuance hereunder, and appointments, removals, promotions, transfers, lay-offs, reinstatements, suspensions,

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<sup>1</sup> In the absence of a constitutional restriction there is no reason why judges of inferior courts should not be included in the classified service.

<sup>2</sup> Wherever the school system is under the jurisdiction of a school board separate and distinct from the state or municipal government with a law providing an efficient merit system this section may be amended.

<sup>3</sup> See note 2 on page 8.

<sup>4</sup> Will be omitted if the other alternative of Sections 6 and 7 is adopted.



leaves of absence and changes in grade, compensation or title shall be made and permitted only as prescribed in this Act and not otherwise.

Section 5. CONTINUANCE OF PRESENT INCUMBENTS: Any person holding an office or place in the classified service as herein defined at the time this Act takes effect shall continue to hold such office or place only until laid off or removed for inefficiency by the appointing officer or until removed under the provisions of this Act.<sup>1</sup> Such person shall not be entitled to reinstatement, transfer or promotion under the provisions of this Act.<sup>2</sup>

Section 6. APPOINTMENT OF STATE COMMISSION: There is hereby created a State Civil Service Commission consisting of one person appointed by the Governor to

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<sup>1</sup> Where an existing civil service act is to be superseded by this act, the following provisions should be inserted:

Any person holding an office or place in the classified service and graded as herein defined at the time this act takes effect by virtue of a civil service act repealed in whole or in part by this act and who was appointed after test and certification to such office or place and has served continuously therein for a period of not less than three months shall become a member of the classified service created by this act without original entrance test.

<sup>2</sup> Persons whose merit and fitness to perform the duties of any position in a grade to which they may be certified has not been tested cannot be treated or regarded as being as well qualified as persons whose merit and fitness have been so tested. They may, at best, be competent in the positions in which they are actually employed, but to send them into other departments to which their grade of service may extend has been found disastrous. No merit principle demands their retention in the service. Their qualifications are not definitely known and the fact that they obtained their appointments largely if not solely for political reasons makes them a source of discord when sent under the guise of merit employees to appointing officers who may have vacancies to fill. This act leaves such persons where it finds them. It reserves only the right to remove such of them as may be demonstrated to be inefficient after the act goes into effect. If laid off by the officers under whom they serve they are separated from the service and cannot claim the right to reinstatement. The shock to the service which wholesale or sudden change in the character of their tenure might occasion is avoided and opportunity to take the tests which will give them tenure during efficiency is afforded. In such tests the experience which such persons should, if competent, have acquired gives them an undoubted advantage over other applicants.

serve until removed under the provisions of this act. Whenever there is a vacancy in the office of State Civil Service Commissioner and no eligible list prepared as provided in this section from which appointment can be made, the Governor shall forthwith appoint (a) a person who has served within the United States continuously for two or more years as a member, secretary or chief examiner of a federal, state, county or municipal civil service commission; (b) a person who has been engaged continuously within the United States for two or more years in selecting trained employees for positions involving professional or technical skill; and (c) a person who has served for two or more years as a judge of a court of record; which three persons shall constitute a board of special examiners to conduct an examination under the provisions of this Act for the purpose of preparing a list of the names, in the order of their relative excellence, of persons eligible to appointment to the office of State Civil Service Commissioner.<sup>1</sup> The members of said board shall serve until an eligible list has been established and appointment made therefrom. Two members of said board shall constitute a quorum for the transaction of business. Said board shall, within thirty days after its members have been appointed, proceed to advertise and hold an examination under the provisions of this Act. The method of examination and the manner of preparing a resulting eligible list and certifying to the Governor therefrom by said board of examiners and making appointments in accordance with such certification by the Governor shall be the same as prescribed for other examinations, certifications and appointments under this Act, and the said board shall have the same powers and obligations in respect thereto as those vested in or imposed upon the State Civil Service Commission. Whenever a vacancy exists in the office of State Civil Service Commissioner, the Governor shall forthwith appoint the person standing highest upon the list of persons eligible for appointment to said office.

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<sup>1</sup> Three provisions are proposed to govern the appointment of the civil service commission in the state service and in cities of over 250,000 inhabitants.

Section 6. APPOINTMENT OF STATE COMMISSION:  
There is hereby created a state civil service commission consisting of three persons appointed by the Governor to serve one for two years, one for four years and one for six years. Each alternate year thereafter the Governor shall appoint one person as the successor of the member whose term shall expire, to serve for six years. Any vacancy shall be filled by the Governor for the unexpired term: The Governor may remove a member of the state civil service commission under the provisions of section 12 of this act.

Section 6. APPOINTMENT OF STATE COMMISSION:  
There is hereby created a State Civil Service Commission, consisting of three persons, one of whom shall be appointed by the Governor to serve during the term of office of the Governor or until removed under the provisions of this Act. The other two members of the State Commission shall be in the classified service and shall possess the same powers and authority as the third member. Two members of the State Civil Service Commission shall constitute a quorum for the transaction of business. Whenever there is a vacancy in the office of State Civil Service Commissioner in the classified service and no eligible list prepared as provided in this section, from which appointment can be made, the Governor shall forthwith appoint (a) a person who has served within the United States continuously for two or more years as a member, secretary or chief examiner of a federal, state, county or municipal civil service commission; (b) a person who has been engaged continuously within the United States for two or more years in selecting trained employees for positions involving professional or technical skill; and (c) a person who has served for two or more years as a judge of a court of record; which three persons shall constitute a board of special examiners to conduct an examination under the provisions of this Act for the purpose of preparing a list of the names, in the order of their relative excellence, of persons eligible to appointment to the office of State Civil Service Commissioner in the classified service. The members of said board shall serve until an eligible list has been established and appointment



made therefrom. Two members of said board shall constitute a quorum for the transaction of business. Said board<sup>1</sup> shall, within thirty days after its members have been appointed, proceed to advertise and hold an examination under the provisions of this Act. The method of examination and the manner of preparing a resulting eligible list and certifying to the Governor therefrom by said board of examiners, and making appointments in accordance with such certification by the Governor shall be the same as prescribed for other examinations, certifications and appointments under this Act, and the said board shall have the same powers and obligations in respect thereto as those vested in or imposed upon the State Civil Service Commission. Whenever a vacancy exists in the office of State Civil Service Commissioner in the classified service, the Governor shall forthwith appoint the person standing highest upon the list of persons eligible for appointment to said office until all such vacancies are filled.

Section 7. APPOINTMENT OF LOCAL COMMISSIONS: In each of the counties, municipalities, school districts and other subdivisions of the state there is hereby created a Civil Service Commission to consist of one person appointed by the chief appointing authority of such county, municipality, school district or other subdivision of the state, to serve until removed under the provisions of this Act. Whenever a vacancy exists in the office of Civil Service Commissioner the chief appointing authority shall make requisition upon the State Civil Service Commission, and the said Commission shall certify to such authority the name and address of the person standing highest upon the list of persons eligible for appointment to said office, and the appointing authority shall forthwith appoint the person so certified by the said Commission therefor.<sup>2</sup>

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<sup>1</sup> It should be noted that this board does its work under the penal provisions of sections 27 and 29 by examination prescribed in its general features in section 23 (page 18), and that papers are open to public inspection (page 20). These provisions should give reasonable assurance of honest and intelligent examinations.

<sup>2</sup> Attention is called to the administration of the merit system in New Jersey and Massachusetts, where State Commissions have



#### Section 7. APPOINTMENT OF LOCAL COMMISSIONS:

In each of the municipalities of the state having a population of 250,000 or more persons as shown by the last census taken by the United States, there is hereby created a Municipal Civil Service Commission to consist of three persons, one of whom shall be appointed by the chief appointing authority of such municipality to serve during the term of office of the appointing authority or until removed under the provisions of this Act. The other two members of the Municipal Civil Service Commission shall be in the classified service and shall possess the same powers and authority as the third member. Two members of the Civil Service Commission shall constitute a quorum for the transaction of business. Whenever there is a vacancy in the office of the Municipal Civil Service Commissioner in the classified service the chief appointing authority shall make requisition upon the State Civil Service Commission and the said commission shall certify to such authority the name and address of the person standing highest upon the list of persons eligible for appointment to said office and the appointing authority shall forthwith appoint the person so certified by the said commission therefor.

In municipalities having a population of less than 250,000 persons, as shown by the last census, and in all counties, school districts and other subdivisions of the

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direct control of the services of counties and municipalities. Such an administration of the law has brought about stability and uniformity of enforcement in these states. If in the interest of simplicity, efficiency and economy of government, some such consolidation should be desirable, the provisions relating to municipal, county and school district commissions should be eliminated. If this plan is adopted subdivision (c) of section 2 should be eliminated. The committee presents as a section of the bill a provision for a state commission with local commissions under the jurisdiction and control of the state board, the state commission to have veto power over all changes in the rules of the municipal commission. Opportunity should be given also to municipalities which have no civil service law to exercise the option of accepting the direct control of the state commission. In some states where the home rule sentiment is strong the civil service is recognized as a state function and the state commission administers the merit system directly.

state there is hereby created a Civil Service Commission, to consist of one person who shall be in the classified service and who shall after examination and certification as above provided be appointed by the chief appointing authority of such municipality, county, school district, or other subdivision, to serve until removed under the provisions of this Act.

Section 8. ACTING COMMISSIONER IN CERTAIN CASES: In case of death, resignation, removal, absence or incapacity of a Civil Service Commissioner, the chief examiner subordinate to such Commissioner shall perform the duties of such Commissioner until such absence or incapacity shall cease, or until an appointment under the provisions of this Act shall be made. Such acting Civil Service Commissioner shall have all the powers of a Civil Service Commissioner.

Section 9. COMMISSIONERS TO HOLD NO OTHER OFFICE: No Civil Service Commissioner shall hold any other lucrative office or employment under the United States, the State, or any county, municipality or other subdivision thereof.

Section 10. SALARY AND EXPENSES: The State Civil Service Commissioner and each Municipal Civil Service Commissioner in municipalities having a population of five hundred thousand or more inhabitants shall receive an annual salary of not less than ————— thousand dollars.<sup>1</sup> Each Civil Service Commissioner shall be paid his necessary traveling expenses incurred in the discharge of his official duty. It shall be the duty of the respective financial authorities of the state, counties, municipalities, school districts and subdivisions of the state to make adequate provision to enable the Commission to carry out the purposes of this Act.

Section 11. USE OF PUBLIC BUILDINGS: It shall be the duty of all officers of the state and of the several counties, municipalities, school districts and other sub-

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<sup>1</sup> The salary of such Civil Service Commissioner should not be less than that of the head of a state or city department.

divisions of the state, to allow the reasonable use of public buildings and rooms and to heat and light the same for the holding of any examinations or investigations provided for by this Act, and in all proper ways to facilitate the work of any of the Civil Service Commissions.

Section 12. REMOVAL OF COMMISSIONER: No Civil Service Commissioner shall be removed except for cause, upon written charges and after an opportunity to be heard in his own defense. Such charges may be filed by any citizen or taxpayer. If made against a State Civil Service Commissioner, they shall be filed with the person holding the office of chief justice<sup>1</sup> of the highest court of the state. If made against any other Commissioner, they shall be filed with the State Commission. The charges shall be heard, investigated and determined by the person holding the office of chief justice, as aforesaid, or by some person or board<sup>2</sup> appointed by him for that purpose, if made against a State Commissioner, and by the State Civil Service Commission, if made against any other Commissioner. The findings and decision upon such hearing shall be final, and shall be certified to the appointing authority and forthwith enforced by such authority. The person, board or State Civil Service Commission, as the case may be, hereby authorized to hold such hearing, shall have power to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers. Each person appointed to hold such hearing under this section shall receive the compensation provided by law for special examiners, referees or similar officers. No persons shall be eligible for such an appointment unless at least ten years theretofore he has been called to the bar of a court of record within the state.

Section 13. CONTINUANCE OF PRESENT INCUMBENTS: RECORDS: Any person holding the office of Civil Service Commissioner on the date this Act takes effect, shall con-

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<sup>1</sup> Constitutional prohibitions in some states may prevent the chief justice to act as a trial officer.

<sup>2</sup> In states where there are official referees or other corresponding officers, it is recommended that three such persons shall be appointed.



tinue to hold such office as a temporary appointee only until such time as a regular appointment thereto under the provision of this Act can be made. Public records of any Civil Service Commission existing on the date this Act takes effect shall be delivered to the corresponding Commission created under this Act, and all lawful eligible lists, acts and proceedings of said Commission shall remain in full force and effect.

Section 14. JURISDICTION: The State Civil Service Commission shall have jurisdiction over all persons and positions in the classified service of the state; each County Civil Service Commission, and each municipal, or other Civil Service Commission shall have jurisdiction over all persons and positions classified in the service of their respective counties, municipalities or other subdivisions of the state.

Section 15. INVESTIGATIONS: Each Commission shall investigate the enforcement and effect of this Act and of the rules made pursuant hereto, the conduct of the employes in the classified service, the methods of administration therein and the nature, tenure and compensation of all offices and places in the service. It shall investigate the efficiency of all officers and employes and all groups of officers and employes in the classified service, and shall communicate to the officer, board or other authority in charge of any department, institution or office, its findings with recommendations for increased efficiency and economy therein.

In the course of any investigation or hearing under the provisions of this Act each Commissioner and each person or board appointed by said Commission to make any such investigation or to conduct any such hearing, may administer oaths, and shall have power to secure by subpoena the attendance and testimony of witnesses and the production of books and papers.

Section 16. ATTENDANCE OF WITNESSES; FEES; FALSE OATHS: Any person who shall be served with a subpoena to appear and testify or to produce books and papers issued in the course of an investigation conducted under any provision of this Act who shall disobey or

neglect to obey any such subpoena shall be guilty of a misdemeanor and shall, on conviction, be punished as provided in this Act. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before the *nisi prius* courts, and shall be paid from the appropriation for the expenses of the Commission. Any judge of a court of record, either in term, time or vacation, upon application of any such Commissioner or person or board, shall compel the attendance of witnesses, the production of books and papers, and the giving of testimony before the Commission, or before any such commissioners, investigating board or person by attachment, or contempt, or otherwise, in the same manner as the production of evidence shall be compelled before said court. Every person who, having taken an oath or made affirmation in the course of any investigation or hearing under the provisions of this Act, shall wilfully and knowingly testify or declare falsely, shall be guilty of perjury and upon conviction shall be punished accordingly. No person shall be compelled to give self-incriminating testimony.

Section 17. STANDARDS AND GRADES: The Commission shall classify and grade all positions in the classified service. The Commission shall ascertain and record the duties of each position in the service, and wherever it appears that two or more positions in a service have duties which are substantially similar in respect to the authority, responsibility and character of work required in the performance thereof, they shall be placed in the same grade, which the Commission shall designate by a title indicative of such duties. Grades having duties of the same general nature and in the same line of promotion shall be placed in the same class, and the lines of promotion definitely specified. For each grade, the Commission shall prescribe a standard maximum and minimum salary or rate of pay and shall report to the appropriation authorities the rate being paid for analogous service in both public and private employment, together with other information pertaining to a proper rate of pay for the service over which the Commission has jurisdiction. The Commission shall by rule prescribe the minimum period

of service in the grade required before a salary may be advanced or increased and a minimum standard of efficiency requisite for such salary advancement or increase. The lowest salary or rate of pay provided for any position in the grade shall constitute the grade pay and no person in such grade shall receive pay in excess of the grade pay unless he is certified by the Commission as having served the period required by said rule with an efficiency rating given by the Commission equivalent to the minimum standard of efficiency required thereby. No person shall be paid an amount greater than the maximum salary or rate of pay prescribed by the Commission for the grade in which he serves. Nothing in this Act shall prevent the authorities charged by law with appropriations for salaries from changing the pay of all positions in a grade.

Salary advancement or increase shall be made within the several grades only in the order of highest efficiency combined with relative seniority as shown by the records of the Commission. Where there are no records of efficiency covering a period of continuous service for six months or more a minimum standard of efficiency during such period shall be presumed.

Section 18. CERTIFICATION OF PAYROLLS: Whenever a position in the classified service is graded and the rate of pay therefor prescribed as provided in this Act, no treasurer, auditor, comptroller or other officer of the state or of any of the counties, municipalities or other subdivisions of the state shall approve the payment of or be in any manner concerned in paying, auditing, or approving any salary, wage or other compensation for services to any person holding such position unless a pay-roll, estimate or account for such salary, wage or other compensation containing the names of the persons to be paid, a statement of the amount to be paid each such person and the services on account of which the same is paid bearing the certificate of the Commission that the persons named in such pay-roll, estimate or account have been appointed or employed in pursuance of law and of the rules made by the Commission under the provisions of this Act and have complied with the terms of this Act and of the rules



of the commission when required so to do, shall have been filed with him. Before making any such certificate the Commission shall investigate the nature of each item of such pay-roll, estimate or account, and if it shall ascertain that the provisions of the law in respect to any such item have not been strictly complied with it shall refuse to certify such item.

The Commission shall refuse to certify the pay of any public officer or employe who shall wilfully or through culpable negligence violate or fail to comply with the provision of this Act or of the rules of the Commission.

Section 19. EFFICIENCY STANDARDS: The Commission shall by rule prescribe standards of efficiency for each grade of the service and for examinations therefor, and it shall make and keep a record of the relative efficiency of all persons in each grade. It shall provide by rule methods for ascertaining and verifying the facts from which such records of relative efficiency shall be made, which shall be uniform for each grade.

Section 20. RULES AND POWERS: The Commission shall make rules to carry out the purposes of this Act, including among other things rules for improving and regulating the classified service by this Act for the classification of all positions in the classified service, for grading positions in the service, for establishing uniform salaries in each grade, for examinations uniform for each grade, for appointments, removals, promotions, transfers, lay-offs, reinstatements, suspensions, leaves of absence, changes in compensation or title, for promoting efficiency and economy in the service, for defining cause or causes for removal from the service, provided that nothing herein shall limit or affect the power of suspensions and removals granted by section 25 of this Act, for regulating the certification of the pay-roll and for maintaining and keeping records of the efficiency of persons, both as individuals and in groups, holding positions in the service. The Commission may at any time authorize the transfer of any employe in the classified service from one position to another position in the same grade and

not otherwise, provided, however, that persons who have not been examined and certified under the provisions of this Act shall not be entitled to transfer. The Commission may from time to time make changes in such rules, provided, however, that such rules shall not be changed by the Commission at the meeting at which such action is proposed and no final action shall be taken thereon until after a public hearing, of which the commission shall give five days' public notice. All rules made as herein provided and all changes therein shall forthwith be printed for distribution by said Commission. Said Commission shall give public notice of the place or places where such rules may be obtained, and in each such publication shall be specified the date, not less than ten days subsequent to the date of such publication, when such rules or changes therein shall take effect.

Section 21. CHARGES AGAINST LOCAL COMMISSIONS: Whenever the State Civil Service Commission shall have reason to believe that cause exists for the removal of any other Civil Service Commissioner it shall institute an investigation, and if it shall find any such cause shall file charges or cause the same to be filed under the provisions of Section 12 of this Act.

Section 22. APPOINTMENTS:

(a) Whenever a position in the classified service becomes vacant, the appointing authority, if it desires to fill the vacancy, shall make requisition upon the Commission for the name and address of a person eligible for appointment thereto. The Commission shall certify to the appointing authority the name and address of the person<sup>1</sup> having the highest standing based upon examination, rating and seniority in service within the grade in which said position is

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<sup>1</sup> The state constitution in New York has been held to require the certification of more than one name for each vacancy and in New York, Massachusetts, the Federal service and frequently elsewhere the rule for certifying not more than three names is in force and may be considered as an alternative provision where local conditions demand it. The following may be substituted: The commission shall certify to the appointing authority the name of one of the three persons having the highest standing, etc.

granted, provided such person has been previously examined as provided in this Act for a position in said grade, and has been separated from the service without fault or delinquency on his part at any time within two years prior to the date of such requisition, and provided such person is not actually and regularly employed in said grade on the date of such requisition. If there is no such person eligible for reinstatement, the Commission shall certify to the appointing authority the name and address of the person standing highest upon the list of eligibles resulting from an examination for the position in said grade.

(b) If there is no person eligible for reinstatement, and no such list of eligibles, the Commission may in its discretion certify to the appointing authority the name and address of a person for temporary appointment, with or without examination, and the appointing authority shall forthwith appoint said person from day to day not to exceed ninety days pending examination. The Commission shall forthwith proceed to hold an examination as herein provided for such grade whenever such temporary appointment is made. If after an examination is held no eligible list shall result the Commission shall forthwith proceed to hold another examination for such grade and may then authorize the continuance of said temporary appointment but not otherwise.

(c) Whenever requisition is so made, or whenever a position is held by a temporary appointee and a reinstatement list or eligible list for the grade of such position exists, the Commission shall forthwith certify the name and address of the person eligible for appointment to the appointing authority and said appointing authority shall forthwith appoint the person so certified to said position. No person so certified shall be laid off, suspended, given leave of absence from duty, transferred or reduced in pay or grade except for reasons which will promote the good of the service, specified in writing, and after



an opportunity to be heard by the Commission, and then only with its consent and approval.

(d) Appointments shall be regarded as taking effect upon the date when the person certified for appointment reports for duty. A person tendered certification may waive or refuse certification in writing for a period, for reasons satisfactory to the Commission, and such waiver or refusal shall not affect the standing or right to certification to the first vacancy in the grade occurring after the expiration of such period. If no such waiver or refusal is filed in writing with the Commission, and if after one waiver had been filed and the period thereof has expired and a person tendered certification fails to report for duty forthwith after tender of certification has been made, his name may at the discretion of the Commission be stricken from all lists for such grade. Acceptance or refusal of temporary appointment or of an appointment to a position exempt from the provisions of this Act shall not affect the standing of any person on the list for permanent appointment.

(e) No person shall be eligible for appointment to any positions in the classified service unless he shall have obtained as a result of an examination for appointment within the grade such minimum mark as may be fixed by the Commission for any subject or part of the examination, and a general average upon all subjects or parts of such examination of not less than the minimum fixed by the rules of the Commission.

(f) Before an appointment or promotion is made complete the person certified by the Commission shall serve a period of probation not to exceed six months, during which period a probationer may be discharged or reduced with the consent of the Commission.

### Section 23. EXAMINATIONS:

(a) All original entrance examinations shall be public, competitive and free to all persons who may

be lawfully appointed to any position within the grade for which such examinations are held, with limitations, specified in the rules of the Commission, as to residence, age, sex, health, habits, moral character and prerequisite qualifications to perform the duties of such positions. Promotion examinations shall be public, competitive, and free only to all persons examined and certified under the provisions of this Act and who have held a position for one year or more in a grade previously declared by the Commission to involve the performance of duties which tend to fit the incumbent for the performance of duty in the grade for which the promotion examination is held. In promotion examinations efficiency and seniority in service shall form part of such examination. The Commission shall determine in filling positions if promotion examinations are practicable and hold open competitive examinations if the service conditions require.

(b) The Commission shall hold promotion examinations for each superior grade of service whenever there is an inferior grade in the same class, the duties of which directly tend to fit the incumbents thereof for the performance of the duties of the superior grade. A person who has served less than one year in a lower grade shall not be eligible for a promotion examination. If less than two persons submit themselves for a promotion examination, or if after such examination is held, all applicants fail to attain a general average of not less than the minimum standing fixed by the rules of the Commission, it shall forthwith hold an original entrance examination and may at any time within six months certify from the eligible list resulting therefrom.

(c) All examinations shall be practical in their character, and shall consist only of subjects which will fairly determine the capacity of the persons examined to perform the duties of the position to which appointment is to be made, and may include examinations of physical fitness or of manual skill. No credit shall be allowed for service rendered under

a temporary appointment. No question in any examination shall relate to political opinions or affiliations. No questions which are misleading or unfair or in the nature of catch questions shall be asked. The Commission shall control all examinations and may designate special examiners to conduct and hold such examinations as the Commission may direct and to make return and report thereof to it. The Commission may at any time substitute any other person in the place of any person so designated, and may itself act as such examining authority without designating special examiners.<sup>1</sup> As many examinations shall be held as may be necessary to provide eligibles for each grade of the service, and to meet all requisitions and to fill all positions held by temporary appointees. From the return and report of the examiners, or from the examinations made by the Commission, it shall prepare a list of eligibles for each grade of the persons who shall attain such minimum mark as may be fixed by the Commission for the service parts of such examination, and whose general average standing upon the examination for such grade is not less than the minimum fixed by the rules of the Commission, and who may lawfully be appointed. Such persons shall take rank upon the list in the order of their relative excellence as determined by the examination without reference to priority of time of examination. The markings of all examinations shall be completed and the resulting eligible list posted within ninety days from the date of the examination. The Commission shall cancel such portion of any list as has been in force for more than two years, but not otherwise.

(d) The markings and examination papers of each candidate shall be open to his own inspection, and the markings and examination papers of all per-

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<sup>1</sup> In examinations for grades having duties involving a profession, vocation or trade generally recognized as a specialty, at least one of the examiners should be a person with practical experience in and knowledge of such specialty.



sons upon any list of eligibles shall be open to public inspection within ten days after an eligible list has been prepared. An error in the marking of any examination other than an error of judgment, if called to the attention of the Commission within one month after the posting of an eligible list resulting from such examination, shall be corrected by it; provided, however, that such correction shall not invalidate any certification or appointment previously made. Notice of the time, place and general scope of every examination and of the duties, pay and experience advantageous or requisite for all positions in the grade for which the examination is to be held shall be given by the Commission by publication at least once a week for two weeks preceding the examination in a newspaper of general circulation published in the county or municipality in which the examination is to be held. Such further notice shall be given as the Commission may prescribe.

Section 24. REPORTS TO THE COMMISSION: Immediate report in writing shall be given to the Commission by the appointing authority and by such other persons as may be designated by the commission, of all appointments, reinstatements, vacancies, absences or other matters affecting the status of positions or the performance of duties of officers or employes classified under the provisions of this Act, and all such notices shall be prepared in the manner and form prescribed by the Commission.

Section 25. REMOVAL: No person holding an office or place in the classified service, except Civil Service Commissioners and persons laid off from duty who this Act provides shall not be entitled to reinstatement, shall be removed or discharged except for cause, upon written charges and after an opportunity to be heard in his own defense. Such charges may be filed by any superior officer, any citizen or taxpayer, and shall within thirty days after filing be heard, investigated and determined by the Commission or by some person or board appointed

by the Commission to hear, investigate and determine the same.<sup>1</sup>

The finding and decision of the Commission, or of such person or board when approved by the Commission, shall be final and shall be certified to the appointing authority and shall be forthwith enforced by such authority.

Nothing herein contained shall limit the power of any superior officer to suspend a subordinate for a reasonable period not exceeding fifteen days pending hearing and decision. Every such suspension shall be without pay; provided, however, that the Commission shall have authority to investigate every such suspension, and in case of its disapproval it shall have power to restore pay to the employee so suspended.

Nothing herein contained shall limit the power of any appointing officer to suspend or dismiss a subordinate for any cause which will promote the efficiency of the service, upon filing with the Commission written reasons for such action and giving the person whose removal is sought reasonable notice of the same, and of any charges preferred against him, and an opportunity to answer the same in writing, and to file with the Commission affidavits in support of such answer. But no trial shall be required except in the discretion of the officer making the removal. All papers filed in the case shall be public records. The Commission may reinstate an officer or employee so removed only in case it appears after a proper hearing that the removal was made for political or religious reasons.<sup>2</sup>

Orders or directions given by a superior to a subordinate, when contrary to a provision of law or to a general rule or order lawfully made, shall be given in writing; and in proceedings under this section it shall be no defense or

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<sup>1</sup> The composition of the removal board should be similar to that of a board of examination for a position involving a profession (see note at foot of page 20).

<sup>2</sup> The Chicago, Illinois, New Jersey, and New York Associations have approved the principle granting to the Civil Service Commission exclusive jurisdiction over removals, which would be accomplished by striking out this paragraph.

excuse for a forbidden act or for an omission to observe the law or any such rule or order that the act or omission was directed by a superior, unless a written direction or order from such superior to that effect is proved.

Section 26. REPORTS BY THE COMMISSION: The Commission shall investigate and report annually to the appointing authority concerning the administrative needs of the service, the personnel and positions in the service, and the compensation provided therefor, the examinations held by the Commission, the appointments made, efficiency ratings and removals in the Civil Service, the operation of the rules of the Commission and recommendations for promoting efficiency and economy in the service, with details of expenditure and progress of work. The appointing authority may require a report from said Commission at any time respecting any matter within the scope of its duties hereunder. The records of the Commission shall be open to public inspection by any citizen under reasonable supervision.

Section 27. ABUSES AND FRAUDS PROHIBITED: No person shall wilfully or corruptly make any false mark or report upon any examination. No person shall, by himself or in co-operation with one or more persons, wilfully or corruptly defeat, deceive or obstruct any person in respect to his or her right of test under the provisions of this Act or falsely mark, grade, estimate or report upon the test or standing of any person tested hereunder, or aid in so doing, or furnish to any person, except in answer to inquiries of the Commission, any special information for the purpose of either improving or injuring the rating of any such person for appointment or employment. No applicant shall deceive the Commission for the purpose of improving his chances or prospects for appointment. No person shall solicit, orally or by letter, and no public officer or employe shall receive or be in any manner concerned in the receiving or soliciting of any money or valuable thing from any officer or employe holding a position in the classified service for any political party or purpose whatsoever. No person shall solicit, pay, give or receive in any public building any money or



valuable thing for any partisan political purpose whatsoever. No person shall use or promise to use his influence or official authority to secure any appointment or prospect of appointment to any position classified under this Act as a reward or return for personal or partisan political service. No public officer or employe shall, by means of threats or coercion induce or attempt to induce any person holding a position in the classified service to resign his position or to take a leave of absence from duty or to waive any of his rights under this Act. No person about to be appointed to any position classified shall sign or execute a resignation dated or undated in advance of such appointment. Any such resignation shall be of no effect.

Section 28. POLITICAL ACTIVITY: No person holding an office or place in the classified service under the provisions of this Act shall seek or accept election, nomination or appointment as an officer of a political club or organization or take an active part in a political campaign or serve as a member of a committee of any such club or organization or circulate or seek signatures to any petition provided for by any primary or election law or act as a worker at the polls, or distribute badges, colors or indicia favoring or opposing a candidate for election or nomination to a public office, whether federal, state, county or municipal, or permit the use of his name for nomination or election to any public office; provided, however, that nothing in this Act shall be construed to prohibit or prevent any such officer or employe from becoming or continuing to be a member of a political club or organization or from attendance upon political meetings, from enjoying entire freedom from all interference in casting his vote and from seeking or accepting election or appointment to the office of public school director or of member of a board of education or of member of a library board.

Section 29. PENALTIES: Any person who shall wilfully or through culpable negligence violate any of the provisions of this Act, or of the rules of the Commission, shall be guilty of a misdemeanor, and shall on convic-

tion thereof be punished by a fine of not less than \$50.00 and not more than \$3,000.00, or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

Section 30. WHAT OFFICERS TO PROSECUTE: Prosecution for violations of this Act may be instituted either by the Attorney General, the State's Attorney or other public prosecuting officer for the county in which the offense, or some part thereof, is alleged to have been committed, or at the election of the Civil Service Commission by special counsel appointed by it. Such a prosecution if begun by a public prosecutor shall be conducted and controlled by him unless and until his term of office shall expire or upon his request some other person shall be substituted as prosecuting officer in the particular case.

Whenever the Attorney General, the State's Attorney or other prosecuting officer for the county in which an offense under this Act is alleged to have been committed shall refuse to prosecute any person alleged to have committed such an offense, or shall fail to prosecute such person after the lapse of thirty days after the alleged offense is brought to his attention, then any taxpayer may apply to any judge of a *nisi prius* court of such county for the appointment of a special attorney to conduct a prosecution of such person or persons, and upon such application the court may appoint some competent attorney to prosecute the person or persons alleged to have committed the offense, and the special attorney so appointed shall have the same power and authority in relation to any such prosecution as the Attorney General, the State's Attorney or other prosecuting officer would or might have had if such special attorney had not been appointed.

Section 31. CIVIL SUITS: It shall be the duty of the Commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this Act and of the rules of the Commission and to defend all civil suits which may be brought against the Commission. The Commission shall be represented in such suits by the chief legal officer of the state, municipality or other subdivision of the state, but said Commission may in any

case be represented by special counsel appointed by it. Any taxpayer of the state may maintain an action in any court of record to recover for the treasury any sums paid contrary to the provisions of this Act or of the rules of the Commission from the person or persons authorizing such payment, or to enjoin the person or persons from making such payment, or to enjoin the Commission from attaching its certificate to a pay-roll in violation of the provisions of this Act.

Section 32. REPEAL: All laws or parts of laws in so far as they are inconsistent with this Act or any of the provisions thereof, are hereby repealed.